



March 23, 2005

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## ENGROSSED SENATE BILL No. 201

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DIGEST OF SB 201 (Updated March 22, 2005 10:45 am - DI 103)

**Citations Affected:** IC 10-14; noncode.

**Synopsis:** Emergency management. Requires the state emergency management agency to establish a program to certify emergency management organizations and professional emergency managers. Requires a county emergency management organization or interjurisdictional disaster agency in which a county participates to be certified as an emergency management organization. Requires a county emergency management director to be certified as a professional emergency manager. Establishes an interim study committee to study certain public safety and homeland security issues.

**Effective:** July 1, 2005.

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### Wyss, Craycraft

(HOUSE SPONSORS — RUPPEL, TINCHER)

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January 4, 2005, read first time and referred to Committee on Homeland Security, Utilities, and Public Policy.  
February 24, 2005, reported favorably — Do Pass.  
February 28, 2005, read second time, ordered engrossed. Engrossed.  
March 1, 2005, read third time, passed. Yeas 37, nays 11.

#### HOUSE ACTION

March 14, 2005, read first time and referred to Committee on Public Safety and Homeland Security.  
March 22, 2005, amended, reported — Do Pass.

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ES 201—LS 6688/DI 96+



March 23, 2005

First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

## ENGROSSED SENATE BILL No. 201

A BILL FOR AN ACT to amend the Indiana Code concerning public safety.

*Be it enacted by the General Assembly of the State of Indiana:*

- 1 SECTION 1. IC 10-14-3-17 IS AMENDED TO READ AS  
2 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 17. (a) A political  
3 subdivision is:  
4 (1) within the jurisdiction of; and  
5 (2) served by;  
6 a department of emergency management or by an interjurisdictional  
7 agency responsible for disaster preparedness and coordination of  
8 response.  
9 (b) A county shall:  
10 (1) maintain:  
11 (A) a county emergency management advisory council; and  
12 (B) a county emergency management organization **that is**  
13 **certified as an emergency management organization under**  
14 **IC 10-14-10;** or  
15 (2) participate in an interjurisdictional disaster agency that:  
16 (A) except as otherwise provided under this chapter, may have  
17 jurisdiction over and serve the entire county; **and**

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**(B) is certified as an emergency management organization under IC 10-14-10.**

**(c) The following are not required to be certified as emergency management organizations under IC 10-14-10 until July 1, 2009:**

**(1) A county emergency management organization that exists on July 1, 2005.**

**(2) An interjurisdictional disaster agency in which a county participates that exists on July 1, 2005.**

**This subsection expires July 2, 2009.**

~~(c)~~ **(d)** The county emergency management advisory council consists of the following individuals or their designees:

(1) The president of the county executive or, if the county executive does not have a president, a member of the county executive appointed from the membership of the county executive.

(2) The president of the county fiscal body.

(3) The mayor of each city located in the county.

(4) An individual representing the legislative bodies of all towns located in the county.

(5) Representatives of private and public agencies or organizations that can assist emergency management considered appropriate by the county emergency management advisory council.

(6) One (1) commander of a local civil air patrol unit in the county or the commander's designee.

~~(d)~~ **(e)** The county emergency management advisory council shall do the following:

(1) Exercise general supervision and control over the emergency management and disaster program of the county.

(2) Select or cause to be selected, with the approval of the county executive, a county emergency management ~~and disaster~~ director who:

(A) has direct responsibility for the organization, administration, and operation of the emergency management program in the county; ~~and~~

(B) is responsible to the chairman of the county emergency management advisory council;

**(C) must be a full-time employee of:**

**(i) the county; or**

**(ii) one (1) of two (2) counties acting jointly under IC 36-1-7; and**

**(D) must be certified as a professional emergency manager**

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under IC 10-14-9.

(f) An individual who is employed by a county as the county emergency management director on July 1, 2005, may continue to act as the county emergency management director until July 1, 2009, without being certified as a professional emergency manager or obtaining a provisional certificate under IC 10-14-9. This subsection expires July 2, 2009.

~~(e)~~ (g) Notwithstanding any provision of this chapter or other law to the contrary, the governor may require a political subdivision to establish and maintain a disaster agency jointly with one (1) or more contiguous political subdivisions with the concurrence of the affected political ~~divisions~~ subdivisions if the governor finds that the establishment and maintenance of an agency or participation in one (1) is necessary by circumstances or conditions that make it unusually difficult to provide:

- (1) disaster prevention;
- (2) preparedness;
- (3) response; or
- (4) recovery services;

under this chapter.

~~(f)~~ (h) A political subdivision that does not have a disaster agency and has not made arrangements to secure or participate in the services of an agency shall have an emergency management director designated to facilitate the cooperation and protection of that political subdivision in the work of:

- (1) disaster prevention;
- (2) preparedness;
- (3) response; and
- (4) recovery.

~~(g)~~ (i) The county emergency management ~~and disaster~~ director and personnel of the department may be provided with appropriate:

- (1) office space;
- (2) furniture;
- (3) vehicles;
- (4) communications;
- (5) equipment;
- (6) supplies;
- (7) stationery; and
- (8) printing;

in the same manner as provided for personnel of other county agencies.

~~(h)~~ (j) Each local or interjurisdictional agency shall:

- (1) prepare; and

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1 (2) keep current;  
 2 a local or interjurisdictional disaster emergency plan for its area.  
 3 (i) (k) The local or interjurisdictional disaster agency shall prepare  
 4 and distribute to all appropriate officials a clear and complete written  
 5 statement of:  
 6 (1) the emergency responsibilities of all local agencies and  
 7 officials; and  
 8 (2) the disaster chain of command.  
 9 (j) (l) Each political subdivision may:  
 10 (1) appropriate and expend funds, make contracts, obtain and  
 11 distribute equipment, materials, and supplies for emergency  
 12 management and disaster purposes, provide for the health and  
 13 safety of persons and property, including emergency assistance to  
 14 the victims of a disaster resulting from enemy attack, provide for  
 15 a comprehensive insurance program for its emergency  
 16 management volunteers, and direct and coordinate the  
 17 development of an emergency management program and  
 18 emergency operations plan in accordance with the policies and  
 19 plans set by the federal emergency management agency and the  
 20 state emergency management agency;  
 21 (2) appoint, employ, remove, or provide, with or without  
 22 compensation:  
 23 (A) rescue teams;  
 24 (B) auxiliary fire and police personnel; and  
 25 (C) other emergency management and disaster workers;  
 26 (3) establish:  
 27 (A) a primary; and  
 28 (B) one (1) or more secondary;  
 29 control centers to serve as command posts during an emergency;  
 30 (4) subject to the order of the governor or the chief executive of  
 31 the political subdivision, assign and make available for duty the  
 32 employees, property, or equipment of the political subdivision  
 33 relating to:  
 34 (A) firefighting;  
 35 (B) engineering;  
 36 (C) rescue;  
 37 (D) health, medical, and related services;  
 38 (E) police;  
 39 (F) transportation;  
 40 (G) construction; and  
 41 (H) similar items or services;  
 42 for emergency management and disaster purposes within or

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outside the physical limits of the political subdivision; and  
 (5) in the event of a national security emergency or disaster  
 emergency as provided in section 12 of this chapter, waive  
 procedures and formalities otherwise required by law pertaining  
 to:

- (A) the performance of public work;
- (B) the entering into of contracts;
- (C) the incurring of obligations;
- (D) the employment of permanent and temporary workers;
- (E) the use of volunteer workers;
- (F) the rental of equipment;
- (G) the purchase and distribution of supplies, materials, and  
 facilities; and
- (H) the appropriation and expenditure of public funds.

SECTION 2. IC 10-14-9 IS ADDED TO THE INDIANA CODE AS  
 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY  
 1, 2005]:

**Chapter 9. Professional Emergency Manager Certification**

**Sec. 1. As used in this chapter, "county organization" means a  
 county emergency management organization established and  
 maintained by a county under IC 10-14-3-17.**

**Sec. 2. As used in this chapter, "disaster agency" means an  
 interjurisdictional disaster agency in which a county participates  
 under IC 10-14-3-17.**

**Sec. 3. As used in this chapter, "emergency management  
 director" means a county emergency management director  
 selected under IC 10-14-3-17.**

**Sec. 4. As used in this chapter, "manager" refers to a  
 professional emergency manager certified under this chapter.**

**Sec. 5. As used in this chapter, "state agency" means the state  
 emergency management agency established by IC 10-14-2-1.**

**Sec. 6. Except as provided in IC 10-14-3-17(f) and section 7 of  
 this chapter:**

- (1) an emergency management director must be certified as a  
 manager under this chapter; and**
- (2) a county organization or disaster agency must be  
 supervised by an emergency management director who is  
 certified as a manager under this chapter.**

**Sec. 7. (a) A vacancy in a position of emergency management  
 director may be filled for not more than two (2) years by an  
 individual with a provisional certificate.**

**(b) On written request of the county emergency management**

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advisory council, the state agency may issue a provisional certificate to an individual who has been selected to fill a vacancy in a position of emergency management director.

(c) A provisional certificate expires on the earliest of the following:

(1) The date the individual vacates the position of emergency management director for the county that requested the provisional certificate.

(2) The date the individual obtains certification as a manager under this chapter.

(3) Two (2) years after the date the provisional certificate is issued.

Sec. 8. (a) To be certified as a manager, an individual must:

(1) meet the standards for education and training established by the state agency; and

(2) successfully complete a written competency examination approved by the state agency.

(b) A manager certificate expires two (2) years after the date the certificate is issued. To renew a certificate, a manager must meet the education and training renewal standards established by the state agency.

(c) A manager must comply with the standards established by the state agency.

Sec. 9. (a) A manager shall keep the state agency informed of the operations of the county organization or disaster agency that employs the manager or supervises the manager's activities.

(b) A manager shall report to the state agency any action by a person, an organization, or another entity that may justify the revocation or suspension of a certificate issued by the state agency to the person, organization, or other entity.

Sec. 10. The state agency shall require an individual to complete:

(1) education and training requirements for certification as a manager; and

(2) continuing education and training requirements to maintain certification as a manager;

that are set by the state agency.

Sec. 11. (a) The state agency may establish standards and impose requirements on an education and training course used to fulfill the requirements of section 10 of this chapter, including a continuing education course.

(b) The state agency may establish a certification program for

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1 instructors who conduct an education and training course used to  
 2 fulfill the requirements of section 10 of this chapter, including a  
 3 continuing education course.

4 **Sec. 12. (a)** The state agency shall adopt rules under IC 4-22-2  
 5 to implement this chapter.

6 **(b)** The rules adopted by the state agency may establish more  
 7 than one (1) level of certification for managers, with different:

- 8 (1) education and training standards;
- 9 (2) competency examinations; and
- 10 (3) continuing education requirements;

11 established for each level.

12 **Sec. 13.** An individual who violates this chapter is subject to  
 13 IC 10-14-11.

14 **Sec. 14.** An individual who violates this chapter commits a Class  
 15 C infraction. Each day of violation constitutes a separate  
 16 infraction.

17 SECTION 3. IC 10-14-10 IS ADDED TO THE INDIANA CODE  
 18 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
 19 JULY 1, 2005]:

20 **Chapter 10. Certification of Emergency Management**  
 21 **Organizations**

22 **Sec. 1.** As used in this chapter, "certified emergency  
 23 management organization" means:

- 24 (1) a county organization; or
- 25 (2) a disaster agency;

26 that is certified under this chapter.

27 **Sec. 2.** As used in this chapter, "county organization" means a  
 28 county emergency management organization established and  
 29 maintained under IC 10-14-3-17.

30 **Sec. 3.** As used in this chapter, "disaster agency" means an  
 31 interjurisdictional disaster agency in which a county participates  
 32 under IC 10-14-3-17.

33 **Sec. 4.** As used in this chapter, "emergency management  
 34 director" means a county emergency management director  
 35 selected under IC 10-14-3-17.

36 **Sec. 5.** As used in this chapter, "manager" refers to a  
 37 professional emergency manager certified under IC 10-14-9.

38 **Sec. 6.** As used in this chapter, "state agency" means the state  
 39 emergency management agency established by IC 10-14-2-1.

40 **Sec. 7.** A county organization or disaster agency must meet the  
 41 standards established by the state agency to be certified as an  
 42 emergency management organization.

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1       **Sec. 8. (a) An emergency management organization certificate**  
 2       **expires two (2) years after the date the certificate is issued.**

3       **(b) A certified emergency management organization must meet**  
 4       **the renewal requirements established by the state agency to renew**  
 5       **a certificate.**

6       **Sec. 9. A certified emergency management organization must be**  
 7       **operated in a safe, efficient, and effective manner in accordance**  
 8       **with the following requirements and with the standards established**  
 9       **by the state agency:**

10       **(1) If the county establishes a county organization, the county**  
 11       **shall have an emergency management advisory council in**  
 12       **accordance with IC 10-14-3-17(b).**

13       **(2) An ordinance, a resolution, or other measure adopted by:**

14       **(A) a county to establish a county emergency management**  
 15       **organization or an emergency management program; or**

16       **(B) a disaster agency to establish an emergency**  
 17       **management program;**

18       **is not effective until it is approved by the state agency.**

19       **(3) The emergency management director of a certified**  
 20       **emergency management organization must be:**

21       **(A) certified as a manager under IC 10-14-9; and**

22       **(B) a full-time employee of:**

23       **(i) the county; or**

24       **(ii) one (1) of two (2) counties acting jointly under**  
 25       **IC 36-1-7.**

26       **(4) A certified emergency management organization must**  
 27       **have a current disaster emergency plan in accordance with**  
 28       **IC 10-14-3-17(j). The plan must meet the standards**  
 29       **established by the state agency.**

30       **(5) The state agency may require the submission of periodic**  
 31       **reports from a certified emergency management organization.**  
 32       **A certified emergency management organization must submit**  
 33       **the reports in the manner and with the frequency required by**  
 34       **the state agency.**

35       **(6) A certified emergency management organization shall**  
 36       **report to the state agency the actions of a person, an**  
 37       **organization, or an entity that may justify the revocation or**  
 38       **suspension of a certificate issued by the state agency to the**  
 39       **person, organization, or entity.**

40       **Sec. 10. The state agency shall adopt rules under IC 4-22-2 to**  
 41       **implement this chapter.**

42       **Sec. 11. A county organization or disaster agency that violates**

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1 **this chapter is subject to IC 10-14-11.**

2 SECTION 4. IC 10-14-11 IS ADDED TO THE INDIANA CODE  
3 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
4 JULY 1, 2005]:

5 **Chapter 11. Sanctions**

6 **Sec. 1. As used in this chapter, "certificate holder" means a**  
7 **person who holds a certificate issued under IC 10-14-9 or**  
8 **IC 10-14-10.**

9 **Sec. 2. As used in this chapter, "person" means:**

- 10 (1) an individual;  
11 (2) a county emergency management organization established  
12 and maintained under IC 10-14-3-17; or  
13 (3) an interjurisdictional disaster agency in which a county  
14 participates under IC 10-14-3-17.

15 **Sec. 3. As used in this chapter, "state agency" means the state**  
16 **emergency management agency established by IC 10-14-2-1.**

17 **Sec. 4. A certificate holder must comply with the applicable**  
18 **standards and rules established under IC 10-14-9 and IC 10-14-10.**  
19 **A certificate holder is subject to disciplinary sanctions under**  
20 **section 5 of this chapter if the state agency determines that the**  
21 **certificate holder:**

- 22 (1) engaged in or knowingly cooperated in fraud or material  
23 deception in order to obtain a certificate, including cheating  
24 on a certification examination;  
25 (2) engaged in fraud or material deception in the course of  
26 professional services or activities;  
27 (3) falsified or knowingly allowed another person to falsify  
28 attendance records or certificates of completion of continuing  
29 education courses required under IC 10-14-9 or IC 10-14-10  
30 or rules adopted under IC 10-14-9 or IC 10-14-10;  
31 (4) has been or is convicted of a felony;  
32 (5) has been or is convicted of a misdemeanor, if the act that  
33 resulted in the conviction has a direct bearing on determining  
34 if the certificate holder should be entrusted to act as a  
35 professional emergency manager;  
36 (6) fails to comply and maintain compliance with or violates  
37 any applicable provision, standard, or other requirement of  
38 IC 10-14-9 or IC 10-14-10 or rules adopted under IC 10-14-9  
39 or IC 10-14-10;  
40 (7) continues to practice after the certificate holder becomes  
41 unfit to practice due to addiction to, abuse of, or dependency  
42 on alcohol or other drugs that endangers the public by

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- 1       impairing the certificate holder's ability to practice safely;  
 2       (8) assists another person in committing an act that would  
 3       constitute a ground for disciplinary sanction under this  
 4       chapter if committed solely by the certificate holder; or  
 5       (9) allows a certificate issued by the state agency to be:  
 6           (A) used by another person; or  
 7           (B) displayed to the public when the certificate is expired,  
 8       inactive, invalid, revoked, or suspended.

9       **Sec. 5.** The state agency may issue an order under IC 4-21.5-3-6  
 10      to impose at least one (1) of the following sanctions if the state  
 11      agency determines that a certificate holder is subject to  
 12      disciplinary sanctions under section 4 of this chapter:

- 13           (1) Revocation of a certificate holder's certificate.  
 14           (2) Suspension of a certificate holder's certificate.  
 15           (3) Issuance of a letter of reprimand.

16      **Sec. 6.** The state agency may deny certification to an applicant  
 17      who would be subject to disciplinary sanctions under section 5 of  
 18      this chapter if the applicant:

- 19           (1) were a certificate holder; or  
 20           (2) has practiced without a certificate in violation of the law.

21      In this denial of certification, the state agency may prohibit the  
 22      applicant from reapplying for a certificate for a period established  
 23      by the state agency.

24      **Sec. 7.** A decision of the state agency under section 5 or 6 of this  
 25      chapter may be appealed to the state agency under IC 4-21.5-3-7.

26      **Sec. 8.** The state agency may temporarily suspend a certificate  
 27      under IC 4-21.5-4 before a final adjudication or during the appeals  
 28      process if the state agency finds that a certificate holder would  
 29      represent a clear and immediate danger to the public's health,  
 30      safety, or property if the certificate holder were allowed to  
 31      continue to practice.

32      **Sec. 9.** The state agency may reinstate a certificate that has been  
 33      suspended under this chapter if the state agency is satisfied that the  
 34      applicant is able to practice with reasonable skill, competency, and  
 35      safety to the public. As a condition of reinstatement, the state  
 36      agency may impose disciplinary or corrective measures authorized  
 37      under this chapter.

38      **Sec. 10.** The state agency may not reinstate a certificate that has  
 39      been revoked under this chapter.

40      **Sec. 11.** The state agency must be consistent in the application  
 41      of sanctions authorized under this chapter. Significant departures  
 42      from precedent set in prior decisions involving similar conduct

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1 must be explained in the state agency's findings and orders.

2 Sec. 12. A certificate holder may not surrender the certificate  
3 holder's certificate without the written approval of the state  
4 agency. The state agency may impose any conditions appropriate  
5 to the surrender or reinstatement of a surrendered certificate.

6 Sec. 13. The state agency shall adopt rules under IC 4-22-2 to  
7 implement this chapter.

8 SECTION 5. [EFFECTIVE JULY 1, 2005] (a) As used in this  
9 SECTION, "committee" refers to the interim study committee on  
10 public safety and homeland security established by this SECTION.

11 (b) There is established the interim study committee on public  
12 safety and homeland security. The committee shall study the  
13 following issues:

- 14 (1) Homeland security and public safety.
- 15 (2) Procedures for issuing licenses and permits under IC 9-24.
- 16 (3) Identification cards issued by other jurisdictions, including  
17 forms of identification other than passports, that are issued to  
18 an individual from a foreign country by:
  - 19 (A) an embassy;
  - 20 (B) a consulate; or
  - 21 (C) another official agent of the foreign country.
- 22 (4) Penalties for business entities that employ individuals  
23 without verifying employment eligibility as required by the  
24 federal Immigration Reform and Control Act of 1986 (8  
25 U.S.C. 1324a).
- 26 (5) Procedures for investigating, apprehending, detaining,  
27 transporting, and otherwise interacting with individuals who  
28 are in the United States without permission of the  
29 Immigration and Naturalization Service.
- 30 (6) The availability of and application procedures to obtain  
31 grants and other funding for the state police department and  
32 other law enforcement agencies for programs to train law  
33 enforcement officers in procedures described in subdivision  
34 (5).
- 35 (7) Procedures for and feasibility of using the state police  
36 salary matrix for state fire marshal investigators, criminal  
37 investigators from the department of state revenue, officers  
38 from the government facilities unit of the state police  
39 department, motor carrier inspectors, officers from the  
40 Indiana war memorials commission, and inspectors from the  
41 state fire marshal's office, based on years of service and rank.
- 42 (8) Any other issue assigned by the legislative council.

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- 1           (c) The committee shall operate under the policies governing
- 2           study committees adopted by the legislative council.
- 3           (d) The affirmative votes of a majority of the voting members
- 4           appointed to the committee are required for the committee to take
- 5           action on any measure, including final reports.
- 6           (e) This SECTION expires January 1, 2006.

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COMMITTEE REPORT

Madam President: The Senate Committee on Homeland Security, Utilities, and Public Policy, to which was referred Senate Bill No. 201, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is made to Senate Bill 201 as introduced.)

WYSS, Chairperson

Committee Vote: Yeas 8, Nays 0.

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## COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Safety and Homeland Security, to which was referred Senate Bill 201, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 11, after line 7, begin a new paragraph and insert:

**"SECTION 5. [EFFECTIVE JULY 1, 2005] (a) As used in this SECTION, "committee" refers to the interim study committee on public safety and homeland security established by this SECTION.**

**(b) There is established the interim study committee on public safety and homeland security. The committee shall study the following issues:**

- (1) Homeland security and public safety.**
- (2) Procedures for issuing licenses and permits under IC 9-24.**
- (3) Identification cards issued by other jurisdictions, including forms of identification other than passports, that are issued to an individual from a foreign country by:**
  - (A) an embassy;**
  - (B) a consulate; or**
  - (C) another official agent of the foreign country.**
- (4) Penalties for business entities that employ individuals without verifying employment eligibility as required by the federal Immigration Reform and Control Act of 1986 (8 U.S.C. 1324a).**
- (5) Procedures for investigating, apprehending, detaining, transporting, and otherwise interacting with individuals who are in the United States without permission of the Immigration and Naturalization Service.**
- (6) The availability of and application procedures to obtain grants and other funding for the state police department and other law enforcement agencies for programs to train law enforcement officers in procedures described in subdivision (5).**
- (7) Procedures for and feasibility of using the state police salary matrix for state fire marshal investigators, criminal investigators from the department of state revenue, officers from the government facilities unit of the state police department, motor carrier inspectors, officers from the Indiana war memorials commission, and inspectors from the state fire marshal's office, based on years of service and rank.**
- (8) Any other issue assigned by the legislative council.**
- (c) The committee shall operate under the policies governing**

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**study committees adopted by the legislative council.**

**(d) The affirmative votes of a majority of the voting members appointed to the committee are required for the committee to take action on any measure, including final reports.**

**(e) This SECTION expires January 1, 2006."**

and when so amended that said bill do pass.

(Reference is to SB 201 as printed February 25, 2005.)

RUPPEL, Chair

Committee Vote: yeas 8, nays 0.

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